

Amend Section 35037 to read:

35037 FEES (Continued)

35037

- (b) Adoption agencies shall collect fees for criminal record clearances pursuant to Family Code sections 8712~~(e)~~(d), 8811~~(e)~~ (d) and 8908~~(e)~~(d).

~~(4)~~ (1) (Continued)

Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8621, 8901, and 9203~~(gf)~~, Family Code.

Reference: Sections 8712(c) (d), 8716, 8810, 8811(c) (d), 8907, 8908(c) (d), and 9203~~(gf)~~, Family Code; and Section 89137(b), Title 22, California Code of Regulations.

Amend Section 35181 to read:

35181 FULL ASSESSMENT OF THE ADOPTIVE APPLICANT

35181

(b) (Continued)

- (12) The results of a screening checks for any criminal background of the applicant and any other adults residing in the home and, ~~if required by Section 35184(e)(1) the FBI criminal-record, if any, from the DOJ.~~
- (13) The results of ~~a screening for prior referrals for child abuse or neglect.~~ out-of-state child abuse and neglect registry checks for the applicant and any other adult in the household who has lived in another state in the preceding five years.

(14) (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code.

Reference: Sections 361.5, 366.21, ~~and~~ 366.22, Welfare and Institutions Code; Family Code; and Adam Walsh Child Protection & Safety Act of 2006, Public Law 109-248.

Amend Section 35183 to read:

35183 ABBREVIATED ASSESSMENT OF THE ADOPTIVE APPLICANT 35183
(Continued)

(c) The agency shall obtain ~~from the applicant, at least, the following information~~ the following information from the applicant: (Continued)

(9) The results of a screening for any criminal background of the applicant and any other adults residing in the home. ~~,unless the agency has a current contract with the DOJ for the Subsequent Arrest Notification Services regarding them as specified in Section 35184.(d) and, if required, by Section 35184(e) the FBI criminal record.~~

(10) The results of out of state child abuse registry checks for the applicant and any adult in the household who has lived in another state in the preceding five years.

(11) ~~(10)~~ (Continued)

(12) ~~(11)~~ (Continued)

(13) ~~(12)~~ (Continued)

(14) ~~(13)~~ (Continued)

(d) (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code.

Reference: Sections 361.5, 366.21 and 366.22, Welfare and Institutions Code.

Amend Section 35184 to read:

35184 CRIMINAL BACKGROUND CHECK OF APPLICANTS

35184

- (a) The agency shall complete a criminal record check of all applicants and any other adults residing ~~in the~~ in the home to obtain, ~~if any,~~ the full state and federal criminal record history from the Department of Justice (DOJ) pursuant to Family Code Section 8712(a). An investigation of the facts regarding prior arrests or convictions may lead to a denial of the adoption home study.

HANDBOOK BEGINS HERE

- (1) ~~Family Code Section 8712(a) states:~~

~~"The department or licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or licensed adoption agency may also secure the person's full criminal record, if any."~~

- (2) ~~"A criminal background check of all applicants will facilitate a determination of their suitability as prospective adopted parents. This check will indicate any pattern of criminal behavior and history of acts involving violence (including domestic violence), child abuse or neglect, and crimes against children that affect the applicant's parenting ability."~~

All adoptive applicants and others residing in the home are required to undergo a criminal history background check as a precondition for placement of a child in an agency adoption.

See Family Code section 8712.

HANDBOOK ENDS HERE

- (b) ~~The agency shall obtain copies of the full criminal record and child abuse index report, if available, from the county or licensing agency if:~~
- (1) ~~The applicants are licensed or certified foster parents.~~
- (2) ~~The applicants are relatives of the child being adopted.~~
- (e)(b) For all other applicants for whom criminal record information is not otherwise available from ~~a state counties or county~~ licensing agency, the agency shall submit to the DOJ one set of fingerprints for each applicant.

- (1) The agency shall clearly indicate "Adoption" on the request to inform the DOJ of the purpose of the criminal record clearance.
- (c) If the applicant or any other person in the household has lived in another state in the preceding five years, the agency shall perform additional child abuse registry checks.
- (d) If the criminal record of an applicant or any other person in the household indicates any conviction or arrest other than a minor traffic violation, the agency shall request the applicant or any other person in the household provide the agency with a copy of a police report for each conviction or arrest, or a letter from a law enforcement agency that the report does not exist. If the law enforcement agency will not release a crime report to the subject, the agency shall order the report. If the report is determined to be unavailable and the applicant submits evidence that the applicant is unable to obtain a letter from a law enforcement agency, the applicant shall submit a written signed statement concerning the circumstances of each conviction or arrest.

HANDBOOK BEGINS HERE

- (A) ~~Form BID-7 is used to submit a set of fingerprints to the DOJ.~~
1. ~~The BID-7 Forms may be ordered at no charge from the DOJ.~~
- (B) ~~The DOJ procedure for obtaining a criminal record is described in the "APPLICANT FINGERPRINT CLEARANCE MANUAL." This manual may be obtained from the DOJ at no cost.~~
- (C) ~~DOJ requires that a check or money order payable to the "California Department of Justice" accompany the submittal of the fingerprint cards unless the agency has arranged for a monthly billing service.~~
- (D) ~~The address for the DOJ is:~~
- ~~Department of Justice
Applicant and Public Service Section
P.O. Box 903347
Sacramento, CA 94203-3470~~
1. ~~For an additional minimal fee, expedited processing which returns the clearances to the agency in approximately twenty five (25) working days is available. The address for this service is:~~
- ~~Department of Justice
Applicant Expedited Services
P.O. Box 903347
Sacramento, CA 94203-3470~~

- (E) ~~If the fingerprints cannot be read by DOJ, the prints should be retaken and resubmitted to DOJ. The first set which were not readable should be attached to the second submittal. If the second set cannot be read, a third set should be taken and submitted. The first two attempts should be attached to the third submittal. If the third set cannot be read, the agency may accept a name check by DOJ. The case record should indicate these attempts.~~
1. ~~After three unsuccessful print submittals, the agency may also have the applicant obtain a letter stating the findings after a name check in the California Law Enforcement Telecommunication System (CLETS) has been completed by the local law enforcement agency having jurisdiction in the city and/or county of their residence~~
- (F) ~~In lieu of rolling inked fingerprints on standardized fingerprint cards, applicants may use the California Crime Information Intelligence System (CAO-CII) also known as "Live Scan Technology", when available. The Live Scan Technology provides electronic finger imaging. Each print is immediately calculated and the data transmitted electronically to DOJ for processing. This process has virtually no rejected fingerprints and greatly expedites fingerprint processing.~~

For applicants who are dual amputees, a BCIA 9010 Request For DOJ Name Check form must be filled out. After completing all the requested information on the form, the applicant must take the form to a law enforcement agency. A law enforcement official will verify that the individual cannot be fingerprinted. The form submitted to DOJ must have the original signature of the law enforcement official. Failure to have a law enforcement official verify the individual's inability to provide fingerprint images will result in the applicant agency being notified of DOJ's denial of the request. Once verified and signed by law enforcement, mail this form, along with a Billing Transmittal form (Pre-paid, Billed or Credit Card), to the following address:

California Department of Justice
Bureau of Criminal Information and Analysis
Applicant Response Section
P.O. Box 903417
Sacramento, CA 94203-4170

Live Scan fingerprints should be taken if the applicant resides in California. If the Live Scan prints are rejected for poor quality prints, the applicant must return to the Live Scan site and have their fingerprints redone with the Live Scan operator referencing the ATI number from the first printing and entering it as the OATI number for the second printing. If the fingerprints reject again on the second printing, DOJ will automatically do a name check for the California response.

For an FBI name check, fill out a Request for Applicant Name Check By the Federal Bureau of Investigation (FBI) form (BCIA 8020) and send it in following the instructions on the form within 75 days from the date of the second rejection notice.

Fingerprint cards (FD-258) should only be used for applicants residing outside of California as well as persons that are physically unable to provide Live Scan prints such as single amputees, persons with disabilities or persons whose print quality is extremely poor. Poor quality prints can still be picked up by a Live Scan device and transmitted, whereas some applicants' prints are so poor that the device will not register the prints. Whenever possible, Live Scan should be used.

For persons with extremely poor print quality that will not register on a Live Scan device, a fingerprint card (FD-258) should be used. The card must have impressions for each fingerprint box on the fingerprint card. If a finger cannot be used, a knuckle smudge will suffice, but the fingerprint card must have the appropriate knuckle smudge for every corresponding finger space on the card. When a fingerprint card is rejected due to poor quality prints, a second fingerprint card will need to be submitted. The second fingerprint card must have the OATI number entered in the space between the "CLASS" and "REF" fields (the OATI would be the ATI number provided on the initial reject response). Once the fingerprint card is rejected a second time, DOJ will automatically do a name check for the California response. For an FBI name check, fill out a Request for Applicant Name Check By the Federal Bureau of Investigation (FBI) form (BCIA 8020) and send it in following the instructions on the form within 75 days from the date of the second rejection notice.

All fingerprint cards (FD-258) must be accompanied with a Billing Transmittal form (Pre-paid, Billed or Credit Card). Send the fingerprint cards (FD-258) and the Billing Transmittal form to the following address:

California Department of Justice
Bureau of Criminal Information and Analysis
Pre-Scan Unit, Room K-111
P.O. Box 903417
Sacramento, CA 94203-4170

HANDBOOK ENDS HERE

~~(d)~~ (e) (Continued)

- ~~(1) — When the adoption has been finalized, denied, or dismissed, the Bureau of Criminal Identification shall be asked to discontinue sending subsequent arrest information about a subject previously fingerprinted for adoption purposes pursuant to Penal Code Section 11105.2.~~

- (1) Pursuant to Penal Code section 11105.2, the agency shall notify the DOJ when the adoption has been denied, dismissed, or finalized to discontinue receiving subsequent arrest information on an applicant previously fingerprinted for adoption purposes unless the applicant is being assessed or investigated by the agency for another adoption.

HANDBOOK BEGINS HERE

- ~~(A) — Penal Code Section 11105.2(e) states:~~

~~"Any agency which submits the fingerprints of applicants for licensing, employment, or certification to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent arrests shall immediately notify the department when the employment of the applicant is terminated, when the applicant's license or certificate is revoked, or when the applicant may no longer renew or reinstate the license or certificate. The Department of Justice shall terminate subsequent arrest notification on any applicant upon the request of the licensing, employment, or certifying authority."~~

See Penal Code section 11105.2

HANDBOOK ENDS HERE

- (2) If the applicants are being assessed or investigated for another adoption, the agency shall maintain the Subsequent Arrest Notification Service. ~~active.~~

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- ~~(A)~~ The DOJ ~~has~~ utilizes ~~a simple on-page~~ the BCIA form 8049 for this purpose entitled: "Contract for Subsequent Arrest Notification Service." ~~This form may be obtained from, and returned to, the same address as provided in Section 35184(e)(1)(D).~~ The form can be accessed on the DOJ website using the following link:

<http://ag.ca.gov/fingerprints/forms/subarr.pdf>

- ~~(1)~~ The DOJ Bureau of Criminal ~~Identification—Information and Analysis~~ has a utilizes form BCIA 8302 entitled, "No Longer Interested (NLI) Notification to terminate the notification of subsequent arrests.

The form can be accessed on the DOJ website using the following link:

<http://ag.ca.gov/fingerprints/forms/nli.pdf>

HANDBOOK ENDS HERE

- ~~(e) (f)~~ The public or private adoption agency shall obtain the FBI criminal record, ~~if any,~~ of the applicant and any other adults residing in the home from the DOJ. ~~when they have resided in California for less than two years or when information gathered in the assessment has given the agency reason to believe that they may have committed a crime in another jurisdiction.~~

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- ~~(1) Reason to believe that they may have committed a crime in another jurisdiction may be based on considerations such as the following:~~
- ~~(A) Statements or actions by them; statements by people providing references; a history of arrests and convictions in California; and employment in another state.~~
- ~~(2) A licensed public adoption agency or an adoptions district office (DO) of CDSS may obtain FBI criminal record information directly from the DOJ regarding them if required by Section 35184(f) by submitting one set of fingerprints for each individual requiring an FBI criminal record clearance to the DOJ.~~
- ~~(3) A licensed private adoption agency may obtain an FBI criminal record clearance for them if required by Section 35184(f) as follows:~~
- ~~(A) Submit a separate set of fingerprints to the DOJ for the FBI criminal record designating the CDSS Adoptions Branch as the "CONTRIBUTING AGENCY."~~
- ~~(B) Clearly indicate "Adoption" on the request to inform the DOJ of the purpose of the criminal record clearance request.~~
- ~~(C) Submit a copy of the criminal record clearance to CDSS Adoptions Branch to request the CDSS to complete an assessment of the applicant's FBI criminal record when it is received from the DOJ. For notification purposes, the agency shall include its name and address on this copy of the request.~~
- ~~1. Refer to Section 35184(c)(1)(A) for related information.~~
- ~~2. The address for the CDSS Adoptions Branch Services Bureau is:~~

~~744 P Street, MS 19 31
Sacramento, CA 95814~~

A public adoption agency may obtain FBI criminal records directly from the DOJ. A private adoption agency may obtain FBI criminal record notification directly from the California Department of Social Services(CDSS) as required by Section 35184(f) regarding any applicant and any other adults residing in the home who have FBI criminal record history. Agencies should submit a new livescan form or one set of fingerprints for each individual to the Department of Justice as follows:

The private adoption agency shall complete the Live Scan form by checking the box for FBI only. The Contributing Agency will be the California Department of Social Services, the ORI number is A1772 and the Mailcode is 09990. The private adoption agency must also enter their Adoption License Facility Number in the OCA field . The results from the FBI only Live Scan fingerprint will be sent to the CDSS who will review the criminal history and verify if it falls under the Adam Walsh Child Protection and Safety Act of 2006. The department will send the private agency the appropriate notice after reviewing the criminal history.

The public or private agency shall utilize the Live Scan form checking both boxes for DOJ and FBI which will enable the agency to get background check results directly from the DOJ.

HANDBOOK ENDS HERE

- (D) (g) The agency shall obtain new sets of electronic fingerprints and shall make new requests to the DOJ for the FBI criminal record in the event of subsequent adoptions unless the Subsequent Notification Service is still in effect.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code, ~~Adam Walsh Child Protection & Safety Act of 2006 Public Law 109-248.~~

Reference: Section 8712, Family Code; and Section 11105.2, Penal Code; Section 1522.1 Health & Safety Code.

Amend Section 35269 to read:

35269 DOCUMENTATION FROM THE APPLICANT (Continued)

35269

(a) (Continued)

- (5) The full state and federal criminal record, ~~if any~~, from the State Department of Justice.

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~~(A) Family Code Section 8908(a) reads as follows:~~

~~"(a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person's full criminal record, if any."~~

HANDBOOK ENDS HERE

~~(B) The Agency shall submit one set of fingerprints for each applicant to the DOJ.~~

- ~~1. The agency shall clearly indicate "Adoption" on the request to inform the DOJ of the purpose of the criminal record clearance.~~

Sections 35269(a)(5)(B) and 35269(a)(5)(B)1 renumbered to Sections 35270(c) and 35270(c)1.

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- ~~2. The DOJ form BID-7 is used to submit a set of fingerprints to the DOJ.~~

- ~~3. The BID-7 forms can be ordered at no charge from the DOJ.~~

- ~~4. The DOJ procedure for obtaining a criminal record is described in the "APPLICANT FINGERPRINT CLEARANCE MANUAL." This manual can be obtained from the DOJ at no cost.~~

- ~~5. DOJ requires that a check or money order payable to the "California Department of Justice" accompany the submittal of the fingerprint cards unless the agency has arranged for a monthly billing service.~~

6. ~~The address for the DOJ is:~~

~~Department of Justice
Bureau of Criminal Identification
P.O. Box 903417
Sacramento, CA 94203-4170~~

HANDBOOK ENDS HERE

Section 35269(a)(5)(C) and Handbook Section 35269(a)(5)(C)1 renumbered to Section 35270(d) and Handbook Section 35269(d).

Section 35269(a)(5)(D) and Handbook Section 35269(a)(5)1. and 2. renumbered to Section 35270(e) and Handbook Section 35270(e).

~~(E) The agency shall require new sets of fingerprints and shall make new requests for state criminal records to the DOJ in the event of subsequent adoptions unless the Subsequent Arrest Notification Services is still in effect.~~

~~(6) The FBI criminal record, if any, of the applicant, from the DOJ when the applicant has resided in California for less than two years or when information gathered in the assessment has given the agency reason to believe that the applicant may have committed a crime in another jurisdiction.~~

~~(A) The agency shall have reason to believe that the person may have committed a crime in another jurisdiction because of, but not limited to, the following: statements or actions by the applicants; statements by people providing references; a history of arrests and convictions in California; and employment in another state.~~

HANDBOOK BEGINS HERE

~~(B) In addition, the Immigration and Naturalization Services (INS) requires an FBI criminal record clearance for each applicant. This clearance is obtained by the INS.~~

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~~(C) A licensed private adoption agency shall obtain an FBI criminal record clearance for its applicants if required by Section 35269(a)(6) as follows:~~

- ~~1. Submit a separate set of fingerprints to the DOJ for the FBI criminal record clearance designating the CDSS Adoptions Branch as the "CONTRIBUTING AGENCY."~~

- ~~2. Clearly indicate "Adoption" on the request to inform the DOJ of the purpose of the criminal record clearance request.~~
- ~~3. The agency shall submit a copy of the criminal record clearance request to the CDSS Adoptions Branch to request the CDSS to complete an assessment of the applicant's FBI criminal record when it is received from the DOJ. For notification purposes, the agency shall include its name and address on this copy of the request.~~

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- ~~4. Refer to Section 36269(a)(5)(B) for related information.~~
- ~~5. The address for the CDSS Adoptions Branch is:~~

~~CDSS Adoptions Branch
Services Bureau
744 P Street, MS 19-31
Sacramento, CA 95814~~

HANDBOOK ENDS HERE

Section 35269(a)(6)(D) renumbered to Section 35270(f).

Authority cited: Sections 10553 and 10554, Welfare & Institutions Code Section 1530, Health and Safety Code; and Sections 8621 and 8900, Family Code.

Reference: Sections 89001, ~~8902, 8904,~~ and 8908 Family Code

Adopt Section 35270 to read:

35270 CRIMINAL BACKGROUND CHECKS

35270

- (a) A licensed adoption agency shall complete a criminal background check of all applicants and any other adults residing in the home to obtain the full state criminal record from the Department of Justice (DOJ) and FBI pursuant to Family Code section 8908.

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See Family Code section 8908

The California Department of Justice provides an automated service (Live Scan) for criminal history background checks that are required for foreign adoptions. If the applicant cannot be Live Scanned, the DOJ will also accept manual fingerprint submissions. Complete instructions and addresses for obtaining and processing the documentation necessary to complete the state background check may be obtained by accessing the following link on the Department of Justice website:

<http://ag.ca.gov/fingerprints/foreignadoptions.php>

HANDBOOK ENDS HERE

- (b) If the applicant or any other person in the household has resided outside of California within the preceding five years, the licensed adoption agency must perform additional child abuse registry checks.

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The licensing agency or licensed adoption agency must check all out of state child abuse and neglect registries in addition to the California Child Abuse Central Index (CACI). See **Health & Safety Code Section 1522.1**

HANDBOOK ENDS HERE

Section 35270(c) and 35270(c)1 renumbered from Section (a)(5)(B) and 35269(a)(5)(B)1.

- (c) The Agency shall submit one set of fingerprints (electronically or manually) for each applicant to the DOJ.

1. The agency shall clearly indicate "Adoption" on the request to inform the DOJ of the purpose of the criminal record clearance.

Section 35270 and Handbook Section 35270(d) renumbered from Section 35269(a)(5)(c) and Handbook Section 35269(a)(5)(c)1.

- (d) The agency shall contract with the DOJ for the Subsequent Arrest Notification Service in order to receive arrest information subsequent to the original DOJ criminal record previously sent to the agency and pending the court order granting the completion of the adoption.

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The DOJ ~~has a simple one page~~ utilizes form BCIA 8049 for this purpose entitled: "Contract for Subsequent Arrest Notification Service." This form and mailing address can be obtained from ~~and returned to the same address as provided in Section 35269(a)(5)(B)6~~ the DOJ website at:

<http://ag.ca.gov/fingerprints/forms/subarr.pdf>

Section 35270(e) and Handbook Section 35270(e) renumbered from Section 35269(a)(5)(D) and Handbook Section 35269(a)(5)(D)1. and 2.

HANDBOOK ENDS HERE

- (e) Pursuant to Penal Code section 11105.2 ~~The agency shall notify the DOJ (pursuant to Penal Code Section 11105)~~ when the adoption has been finalized, denied or dismissed to discontinue receiving subsequent arrest information on an applicant previously fingerprinted for adoption purposes unless the applicant is being assessed or investigated by the agency for another adoption.

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1. ~~The address for the DOJ is given in Section 35269(a)(5)(B)6.~~
2. ~~The DOJ Bureau of Identification also has a form entitled "No Longer Interested Notification" to be used for this purpose.~~

The DOJ utilizes form BCIA 8302 for this purpose entitled: "No Longer Interested (NLI) Notification." The form and mailing address can be obtained from the DOJ website at:

<http://ag.ca.gov/fingerprints/forms/nli.pdf>

HANDBOOK ENDS HERE

Section 35270(f) renumbered from 35269(a)(6)(D)

(f) In the event of subsequent adoptions, ~~The~~ agency shall require new sets of fingerprints and shall make new requests for state criminal records to the DOJ ~~for the FBI criminal record in the event of subsequent adoptions~~ unless the Subsequent Arrest Notification Services is still in effect.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Sections 1530 and 1522.1, Health and Safety Code; Sections 8621 and 8901, Family Code

Reference: Sections 8901 and 8908, Family Code.

Amend Section 35271 to read:

35271 IDENTIFICATION OF THE APPLICANT AND EVALUATION 35271
OF SPECIFIC CHARACTERISTICS (Continued)

(a) (Continued)

(2) (Continued)

(G) The full state criminal record, ~~if any~~, of the applicant and ~~if required by~~
~~Section 35269(a)(6)~~ the FBI criminal record, ~~if any~~, from the DOJ.

(1) (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section
1530, Health and Safety Code; and Sections 8621 and 8901,
Family Code.

Reference: Sections 89001, ~~8902, 8904~~, and 8908, Family Code.

Amend Section 35273 to read:

**35273 WRITTEN NOTIFICATION OF AGENCY'S DECISION REGARDING 35273
PLACEMENT OF A CHILD AND GRIEVANCE REVIEW PROCEDURES**
(Continued)

(a) (Continued)

(3) The agency shall not approve an application for adoptive placement of a child prior to receiving written notification from the § CDSS—Adoptions Services Bureau Branch, that the information contained in an FBI criminal record of an applicant does not preclude an adoptive placement.

(4) (Continued)

(b) (Continued)

~~(1) When a grievance concerns an action based on the FBI criminal record, the agency shall comply with the procedures set forth at Section 35233(a)(1)(D).~~

Authorities cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8621 and 8901, Family Code.

Reference: Sections 8901, ~~8902, 8904,~~ and 8908, Family Code.